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SENATE BILL 5151

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State of Washington

60th Legislature

2007 Regular Session

By Senators Franklin, Kohl-Welles and Keiser

Read first time 01/11/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to the registration of persons who provide or offer  
2 to provide athletic coaching services to children under the age of  
3 eighteen; adding a new section to chapter 42.56 RCW; adding a new  
4 chapter to Title 19 RCW; creating a new section; and prescribing  
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that parents, local  
8 jurisdictions, nonprofit organizations, and other entities providing  
9 athletic opportunities to youth need better information about the  
10 criminal histories of prospective coaches before they hire, engage, or  
11 otherwise retain the coaches for compensation. The legislature  
12 declares that the safety, health, and welfare of children and families  
13 of this state would benefit from the establishment of a uniform  
14 registration system for all persons who, for compensation, provide or  
15 offer to provide athletic coaching services to persons under the age of  
16 eighteen, other than as an employee of a public or private school.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Athletic" means a physical activity requiring or typically  
2 involving stamina, agility, strength, knowledge of the activity's  
3 rules, and the capability to perform movements or functions required  
4 under those rules. "Athletic" includes individual and organized or  
5 team sports or games.

6 (2) "Commercial youth athletic coach" means a person who performs  
7 youth athletic coaching for compensation through an employment or  
8 business relationship other than where the person possesses a current  
9 teaching certificate under chapter 28A.410 RCW or is employed by a  
10 private or public school after completing a criminal history background  
11 check as required by RCW 28A.195.080 or 28A.400.303.

12 (3) "Department" means the department of licensing.

13 (4) "Director" means the director of licensing or the director's  
14 designee.

15 (5) "Youth athletic coaching" means the activity of providing  
16 services relating to the development of a child's or youth's athletic  
17 talents, skills, or abilities where the child or youth is under the age  
18 of eighteen, and the coach is not related to the child or youth by  
19 blood or marriage.

20 NEW SECTION. **Sec. 3.** (1) A person may not advertise or otherwise  
21 offer to provide the services of a commercial youth athletic coach, or  
22 to engage in, conduct, or carry on the business of commercial youth  
23 athletic coaching in this state unless the person possesses a valid,  
24 unsuspended, and unexpired certificate of registration issued by the  
25 department under this chapter.

26 (2) A person is guilty of a gross misdemeanor when the person (a)  
27 violates this section; and (b) has, as of the date of the violation,  
28 any conviction defined in section 13 of this act, regardless whether  
29 the conviction appears on any criminal history background record.

30 NEW SECTION. **Sec. 4.** (1) The director may require, by rule, any  
31 information and documentation that reasonably relates to the need to  
32 determine whether the applicant meets the requirements established by  
33 this section.

34 (2) The director shall issue a certificate of registration as a  
35 commercial youth athletic coach only to an applicant who:

36 (a) Is at least eighteen years of age;

- 1 (b) Is a citizen or resident alien of the United States;
- 2 (c) Has a place of business or residence located in the state;
- 3 (d) Submits a fully completed application on the form prescribed by
- 4 the director;
- 5 (e) Submits a set of the applicant's fingerprints for a background
- 6 check through the Washington state patrol criminal identification
- 7 system under RCW 10.97.030 and 10.97.050 and through the federal bureau
- 8 of investigation;
- 9 (f) Pays a nonrefundable fee as is required by the department for
- 10 the background check; and
- 11 (g) Has no disqualifying conviction, as provided under section 13
- 12 of this act, regardless whether the conviction appears on any criminal
- 13 history background record.

14 NEW SECTION. **Sec. 5.** (1) The Washington state patrol shall

15 forward the fingerprint data submitted by an applicant under this

16 chapter to the federal bureau of investigation for a national criminal

17 history records check.

18 (2) An application submitted under section 4 of this act is not

19 complete until the search result has been received by the department

20 from both the Washington state patrol and the federal bureau of

21 investigation fingerprint check systems.

22 (3) Criminal history record information received by the department

23 under this chapter is exempt from public inspection or disclosure under

24 chapter 42.56 RCW.

25 (4)(a) The director shall issue a certificate of registration as a

26 commercial youth athletic coach to each applicant within thirty days

27 after receiving the background check results from both (i) the

28 Washington state patrol criminal identification system; and (ii) the

29 federal bureau of investigation.

30 (b) The certificate of registration must contain a unique

31 registration number and a prominent statement containing the following

32 information:

33 (i) That the certificate of registration is not a guarantee that

34 the subject of the inquiry has no criminal record or adverse civil or

35 administrative decisions;

36 (ii) That the certificate of registration is not an endorsement of

1 the holder by the state of Washington, nor a guarantee that the  
2 registrant is substantively qualified in the field of athletic  
3 coaching; and

4 (iii) That if the responsibilities or duties of the commercial  
5 youth athletic coach includes transporting the youth by private  
6 vehicle, the parent, guardian, or hiring entity is authorized by RCW  
7 46.52.130 and section 12 of this act to request and receive a certified  
8 copy of the registrant's abstract of driving record.

9 NEW SECTION. **Sec. 6.** (1) A commercial youth athletic coach shall  
10 include the following information in any advertisement or other  
11 publication that the coach authorizes, sponsors, or purchases, in whole  
12 or in part, which contains an offer to provide services as a commercial  
13 youth athletic coach: (a) The coach's true name as it appears in the  
14 records of the department; (b) the coach's address of record with the  
15 department; and (c) the registration number issued by the department  
16 under this chapter.

17 (2)(a) Before entering into a contract for compensation with the  
18 parent, parents, or guardian of a child to provide youth athletic  
19 coaching services to the child, a commercial youth athletic coach shall  
20 deliver to the parents or guardians a certified copy of the certificate  
21 of registration issued under this chapter.

22 (b) Before entering into an employment or business relationship  
23 with a third party to provide youth athletic coaching services to the  
24 clients or members of the third party, the commercial youth athletic  
25 coach shall deliver to the hiring officer of any entity employing or  
26 retaining the coach a certified copy of the certificate of registration  
27 issued under this chapter.

28 (3) The department may charge a reasonable fee, not to exceed ten  
29 dollars, to create each certified copy of a certificate of registration  
30 issued under this chapter.

31 (4) A certificate of registration issued under this chapter is  
32 valid for two years from the date of issue, and is not transferable.

33 (5) The department shall renew a certificate of registration, with  
34 the same unique registration number identifying the registrant, upon  
35 receipt of an application containing no disqualifying convictions as  
36 provided under section 4 of this act. The director may, by rule,

1 provide for an additional fee for the submission of a renewal  
2 application received less than ninety days prior to the renewal date.

3 NEW SECTION. **Sec. 7.** (1) The state of Washington and its  
4 employees are not liable for defamation, invasion of privacy,  
5 negligence, or any other claim in connection with any lawful  
6 dissemination of information released under this chapter.

7 (2) A person may not represent to another that the lawful  
8 dissemination of information under this chapter guarantees that the  
9 subject of the inquiry (a) has no criminal record or adverse civil or  
10 administrative decisions; or (b) is substantively suitable or  
11 qualified.

12 NEW SECTION. **Sec. 8.** (1)(a) A person registered or required to be  
13 registered under this chapter shall notify the director within thirty  
14 days of any material change in the information furnished or required to  
15 be furnished to the director, including but not limited to the  
16 discovery of any (i) error that the registrant knows or should know is  
17 contained in the criminal history record information report submitted  
18 as part of the registrant's application under this chapter; or (ii)  
19 arrest or conviction of the registrant for any criminal offense  
20 occurring after the date of application.

21 (b) Upon receipt of any information relating to a person required  
22 to be registered, as described in (a) of this subsection, the director  
23 shall investigate the accuracy of the information and may accept proof  
24 of a recent fingerprint background check. If the director concludes  
25 the report of the registrant is accurate and that the applicant has not  
26 been convicted of a disqualifying crime under section 13 of this act,  
27 the director shall update the records maintained by the department,  
28 assess a reasonable fee of not less than fifty dollars, and, upon  
29 receipt of the required fee, issue an amended certificate of  
30 registration to the registrant.

31 (2) The director shall suspend the certificate of registration of  
32 any person who has been:

33 (a) Convicted of any criminal offense after the date of  
34 application, unless the registrant has notified the director of such  
35 conviction and pays the fee required by subsection (1) of this section,

1 provided that the conviction does not disqualify the registrant  
2 pursuant to section 13 of this act;

3 (b) Certified by a lending agency and reported to the director for  
4 nonpayment or default on a federally or state-guaranteed educational  
5 loan or service-conditional scholarship. Prior to the suspension, the  
6 agency must provide the person an opportunity for a brief adjudicative  
7 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of  
8 nonpayment or default on a federally or state-guaranteed educational  
9 loan or service-conditional scholarship. The person's registration may  
10 not be reissued until the person provides the director a written  
11 release issued by the lending agency stating that the person is making  
12 payments on the loan in accordance with a repayment agreement approved  
13 by the lending agency. If the person has continued to meet all other  
14 requirements for registration during the suspension, reinstatement  
15 shall be automatic upon receipt of the notice and payment of any  
16 reinstatement fee the director may impose; or

17 (c) Certified under RCW 74.20A.320 by the department of social and  
18 health services as a person who is not in compliance with a support  
19 order. If the person has continued to meet all other requirements for  
20 reinstatement during the suspension, reissuance of the registration  
21 shall be automatic upon the director's receipt of a release issued by  
22 the department of social and health services stating that the person is  
23 in compliance with the order.

24 NEW SECTION. **Sec. 9.** (1) The provisions of this chapter relating  
25 to the registration of commercial youth athletic coaches are exclusive.  
26 No governmental subdivision of the state may enact any laws or rules  
27 with respect to registration of commercial youth athletic coaches for  
28 regulatory purposes, except as provided in subsections (2) and (3) of  
29 this section.

30 (2) This section may not be construed to prohibit a political  
31 subdivision of this state from levying a business fee, business and  
32 occupation tax, or other tax upon commercial youth athletic coaches if  
33 the fees or taxes are levied by the political subdivision on other  
34 types of businesses within its boundaries.

35 (3) This section may not be construed to prohibit the state or any  
36 political subdivision of the state from licensing for regulatory

1 purposes commercial youth athletic coaches with respect to activities  
2 that are not regulated under this chapter.

3 NEW SECTION. **Sec. 10.** (1) The uniform regulation of business and  
4 professions act, chapter 18.235 RCW, governs the issuance and denial of  
5 registrations and the discipline of registrants under this chapter.

6 (2) In addition to those powers set forth in RCW 18.235.030, the  
7 director has the authority to enter into an assurance of discontinuance  
8 in lieu of issuing a statement of charges or conducting a hearing. The  
9 assurance must consist of a statement of the law in question and an  
10 agreement to not violate the stated provision. The applicant or  
11 registered commercial youth athletic coach is not required to admit to  
12 any violation of the law, and the assurance may not be construed as  
13 such an admission. Violation of an assurance under this subsection is  
14 grounds for disciplinary action.

15 (3) In addition to the unprofessional conduct described in RCW  
16 18.235.130, the following conduct, acts, or conditions constitute  
17 unprofessional conduct:

18 (a) Violating any of the provisions of this chapter or the rules  
19 adopted under this chapter;

20 (b) Violating an order to cease and desist that is issued by the  
21 director under this chapter;

22 (c) Misrepresenting or knowingly making a material misstatement or  
23 omission in the application to register as a commercial youth athletic  
24 coach; or

25 (d) Misrepresenting or knowingly making a material misstatement or  
26 omission in any physical or electronic material soliciting for business  
27 as a commercial youth athletic coach as required under section 6(1) of  
28 this act.

29 NEW SECTION. **Sec. 11.** Any person may submit a written complaint  
30 to the department charging a commercial youth athletic coach or  
31 applicant with unprofessional conduct and specifying the grounds for  
32 the charge. If the director determines that the complaint merits  
33 investigation, or if the director has reason to believe, without a  
34 formal complaint, that a registered commercial youth athletic coach or  
35 applicant may have engaged in unprofessional conduct, the director  
36 shall investigate to determine if there has been unprofessional

1 conduct. A person who files a complaint under this section in good  
2 faith is immune from suit in any civil action related to the filing or  
3 contents of the complaint. When a statement of charges is issued  
4 against a registered commercial youth athletic coach or applicant under  
5 RCW 18.235.050, notice of this action must be given to the commercial  
6 youth athletic coach or applicant.

7 NEW SECTION. **Sec. 12.** In addition to any other duties imposed by  
8 law, the director shall have the following powers and duties:

9 (1) To set by rule all registration, renewal, and other fees in  
10 accordance with RCW 43.24.086;

11 (2) To adopt those rules, in accordance with the administrative  
12 procedure act, chapter 34.05 RCW, necessary to implement this chapter;

13 (3) To expend such funds as the director deems appropriate to  
14 educate affected coaches, parents, and other entities, of the  
15 requirements of this chapter; and

16 (4) To furnish the certified abstract of a driving record, under  
17 RCW 46.52.130, of any person registered under this chapter to any  
18 person or entity submitting a request for such a record accompanied by  
19 an original or photocopy of the registrant's certificate of  
20 registration as a commercial youth athletic coach.

21 NEW SECTION. **Sec. 13.** (1) The director shall not issue a  
22 certificate of registration as a commercial youth athletic coach to any  
23 applicant when the criminal history record information report contains  
24 information indicating the following, regardless of whether the  
25 conviction appears on any criminal history background record:

26 (a) Conviction of any gross misdemeanor or felony relating to the  
27 practice of the person's profession or operation of the person's  
28 business; or

29 (b) The commission of any act involving moral turpitude,  
30 dishonesty, or corruption relating to the practice of the person's  
31 profession or operation of the person's business, whether the act  
32 constitutes a crime or not.

33 (2) For the purposes of this section, conviction includes all  
34 instances in which a plea of guilty or nolo contendere is the basis for  
35 conviction and all proceedings in which the sentence has been deferred  
36 or suspended. Except as specifically provided by law, nothing in this

1 section abrogates the provisions of chapter 9.96A RCW. However, RCW  
2 9.96A.020 does not apply to a person who is required to register as a  
3 sex offender under RCW 9A.44.130.

4 NEW SECTION. **Sec. 14.** A new section is added to chapter 42.56 RCW  
5 to read as follows:

6 Criminal history information received by the department of  
7 licensing under chapter 19.-- RCW (sections 1 through 13 and 15 of this  
8 act) is exempt from disclosure under this chapter.

9 NEW SECTION. **Sec. 15.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 16.** If specific funding for the purposes of  
14 this act, referencing this act by bill or chapter number, is not  
15 provided by June 30, 2007, in the omnibus appropriations act, this act  
16 is null and void.

17 NEW SECTION. **Sec. 17.** Sections 1 through 13 and 15 of this act  
18 constitute a new chapter in Title 19 RCW.

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